

**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF COMMERCE**

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WEAVER'S COVE ENERGY, LLC)	
Appellant,)	
v.)	
MASSACHUSETTS OFFICE OF COASTAL)	
ZONE MANAGEMENT,)	
Respondent.)	
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MOTION TO ENLARGE TIME TO FILE RESPONDENT'S BRIEF

Respondent requests that the Secretary grant an enlargement of time for it to respond to the principal brief of the appellant in the above-captioned consistency appeal, pursuant to its broad authority under 15 C.F.R. 930.127(e)(1). Specifically, respondent Massachusetts Office of Coastal Zone Management (MCZM) seeks an enlargement until November 21, 2007, which is an extension of 26 days, and that the date on which appellant's reply brief is due to be filed be adjusted accordingly to December 11, 2007.

This appeal challenges an objection to a request for a Federal Consistency Certification that MCZM was forced to issue on July 6, 2007, on procedural grounds, in relation to the projects of Weaver's Cove Energy, LLC, and Mill River Pipeline, LLC's, to construct and operate a liquefied natural gas import terminal and associated piping in the vicinity of Fall River, Massachusetts, respectively. On June 6, 2007, Weaver's Cove and Mill River requested that MCZM stay its consistency review due to the fact that there remained outstanding state permits that were essential for MCZM to complete its review, and on June 8, 2007, MCZM agreed and proposed to stay its review for a period of nine months. In an 11th-hour "about-face," on July 2, 2007, three business days before the deadline for MCZM to make a consistency determination,

Weaver's Cove and Mill River rejected MCZM's offer to stay the consistency review process as Weaver's Cove and Mill River had each requested. As a matter of course, MCZM's objections and Weaver's Cove's and Mill River's appeals thereof followed.

Respondent states the following compelling reasons in support of this request for an enlargement of time:

1. On August 27, 2007, Weaver's Cove and Mill River commenced the instant case and the companion case appealing MCZM's objections.
2. On September 5, 2007, the Secretary established the briefing schedule in this appeal. It requires appellant's principal brief to be filed on September 26, 2007, respondent's principal brief to be filed on October 26, 2007 and appellant's reply brief to be filed on November 15, 2007.
3. Also on September 5, 2007, the Secretary established the identical briefing schedule in the companion appeal of Mill River Pipeline, LLC, involving the same overall project.
4. The undersigned counsel to MCZM filed an appearance in this appeal on September 7, 2007.
5. On September 17, 2007, the undersigned counsel to MCZM received a copy of the bulk of the record in electronic form from the appellant. The consolidated record in this case is exceptionally large.
6. On June 28, 2007, Weaver's Cove commenced an appeal in the United States Court of Appeals for the District of Columbia Circuit against the Massachusetts Department of Environmental Protection (MassDEP) and its Commissioner, *Weaver's Cove, LLC, v.*

Massachusetts Department of Environmental Protection, et al., D.C. Cir., No. 01-1238, to challenge conduct related to one of the outstanding state certifications that Weaver's Cove and Mill River cited in support of their reversing position on their requests for a stay of MCZM's consistency review.

7. In its DC Circuit appeal, Weaver's Cove proposed an expedited briefing schedule to the court in which its opening brief is due September 24, 2007, the respondents brief is due October 24, 2007, and Weaver's Cove's reply brief is due November 8, 2007. The court has not issued an order establishing a schedule yet; however, on September 24, Weaver's Cove filed and served its principal brief.

8. The undersigned counsel is the sole attorney representing the MassDEP in the DC Circuit appeal and in both of the consistency review appeals that are pending before the Secretary.

9. These appeals involve important, yet very different, issues of fact and law.

10. The preparation of multiple briefs within virtually the same, relatively short, time frame creates an undue burden on the Commonwealth. The enlargement of time so that MCZM's brief in this appeal would be due on November 21, 2007, would not unduly delay the proceedings, would accord a measure of fairness contemplated by the regulations, at 15 C.F.R. 930.127(e)(1), and is squarely within the Secretary's broad authority.

11. The undersigned counsel for MCZM spoke to G. Mark Cook, Esq., counsel for appellant regarding this request and was told that appellant could not agree to it at this time but that it would be willing to consider a request for an extension as the filing deadline approached.

For the foregoing reasons, MCZM respectfully requests that the Secretary grant this

ion.

Respectfully submitted,

MASSACHUSETTS OFFICE OF
COASTAL ZONE MANAGEMENT

By its attorney,

MARTHA COAKLEY
ATTORNEY GENERAL

By: Carol Iancu
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Tel. (617) 727-2200, ext. 2428

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2007, I caused a true and accurate copy of the foregoing Motion to Enlarge Time to File Respondent's Brief to be served by first-class mail, postage prepaid, and electronic copies to be sent to the following:

Bruce F. Kiely
G. Mark Cook
Adam J. White
Baker Botts, LLP,
1299 Pennsylvania Ave., NW
Washington, DC 20004

Alan L. Baron
2099 Pennsylvania Avenue, N. W.
Suite 100
Washington, D.C. 20006

Ralph T. Lepore, III
Dianne R. Phillips
10 St. James Avenue
Boston, MA 02111

Carol Iancu